

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7265

BILL NUMBER: HB 1368

NOTE PREPARED: Jan 10, 2004

BILL AMENDED:

SUBJECT: Absentee Voting.

FIRST AUTHOR: Rep. Messer

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides that a person may not give an application for an absentee ballot to the applicant if any of the information has been filled out before the application is given to the applicant. The bill requires an application for an absentee ballot to be filed within specific times. The bill requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. The bill requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury.

The bill permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. The bill provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. The bill requires certain persons who deliver an absentee ballot for a voter to affirm certain facts under penalties for perjury. The bill provides that certain actions relating to handling, possession, delivery, and voting absentee ballots are crimes. The bill makes other changes relating to absentee ballots.

Effective Date: Upon passage.

Explanation of State Expenditures: *Election Forms*- The Election Commission would be required to prescribe absentee ballot application forms to comply with the bill not later than March 31, 2004. Additionally, the Commission would need to prescribe an official affidavit form for county election board use for individuals filing absentee ballots on behalf of other voters.

Under the bill, several items of additional information including more detailed description of voting systems would be required of vendors when filing an application for certification of a voting system. The voting system application form (State form 45487, IEC-11) would need to be revised in order to account for the

additional information a vendor would be required to provide under the bill.

The Election Division spent about \$2,600 for printing forms in FY 2003. The Commission's resources should be sufficient to develop the forms necessary to comply with the bill.

Background: The Election Commission reverted \$221,315 back to the state General Fund at the end of FY 2003. The Election Division was appropriated \$798,806 in FY 2003. Total Election Division expenditures during FY 2003 were estimated at \$761,251. The Election Division was appropriated \$794,571 in FY 2004 and \$725,571 in FY 2005.

Criminal Penalties- The bill introduces several new criminal penalties, including Class D felony and Class A misdemeanor provisions.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years. The average length of stay for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Criminal Penalties-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Absentee Ballots-* The county election board would be able to deny applications for absentee ballots if applications were not filled out in compliance with the instructions provided in the bill. Under the bill, election officials would be able to file an affidavit that attested to improper procedures for filing an application for an absentee ballot. The county election board would conduct a hearing to approve or deny affidavits.

Criminal Penalties- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Criminal Penalties-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: State Budget Agency: *FY2003 General and Rainy Day Fund Summaries*, BUDSTARS; Indiana Sheriffs' Association, Department of Correction; Auditor of State, Object Trial Balance 6/30/03.

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